

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA, ex rel., THOMAS J. )  
MILLER, ATTORNEY GENERAL OF )  
IOWA (99AG23112), )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CARL B. DURHAM, SR., d/b/a DURHAM )  
REMODELING & REPAIR, )  
 )  
Defendants. )

LAW NO. \_\_\_\_\_

**CONSENT ORDER,  
JUDGMENT AND DECREE**

NOW on this \_\_\_\_ day of \_\_\_\_\_, 2013, the Court is presented with the plaintiff's Petition at Law seeking civil penalties and injunctive relief pursuant to Iowa Code sections 480.6 and 480.7. The Court having read the Petition at Law and being otherwise advised by the parties FINDS:

1. The Court has jurisdiction of the parties and the subject matter of this action and the parties consent to entry of this Consent Order, Judgment and Decree.

2. Defendant Carl B. Durham, Sr., d/b/a Durham Remodeling & Repair, having reviewed the Petition at Law, admits, for purposes of settlement and for this action only, the violations alleged in paragraph twenty-six (26) of the Petition at Law.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. Defendant Carl B. Durham, Sr., d/b/a Durham Remodeling & Repair, is assessed a civil penalty of Three Thousand Five Hundred and no/100 Dollars (\$3,500.00) for the violations admitted herein. The defendant shall pay One Thousand and no/100 Dollars (\$1,000.00) of the civil penalty within ten (10) days of the entry of this Consent Order, Judgment and Decree. The

defendant shall pay the remaining Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) of the civil penalty by April 1, 2014. The defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payments of the civil penalty and interest shall be made payable to the State of Iowa and submitted to plaintiff's attorney, David R. Sheridan, at the address noted below.

2. Defendant Carl B. Durham, Sr., d/b/a Durham Remodeling & Repair, is permanently enjoined from commencing any excavation in the State of Iowa, except during an emergency pursuant to Iowa Code section 480.4(6), without first contacting the statewide notification center (1-800-292-8989 or 811) at least 48 hours prior to the planned excavation, excluding weekends and legal holidays, as required by Iowa Code sections 480.1A and 480.4(1)(a), and providing the information required by Iowa Code sections 480.4(1)(b)(1)-(8) and 480.4(1)(c)(1)-(8); and the defendant is further enjoined from commencing any excavation except under the schedule and pursuant to the terms of each such notification.

3. The Court retains jurisdiction of this matter to insure compliance with the terms of this Order.

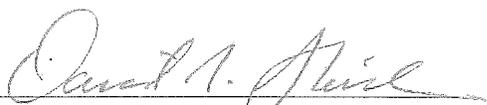
4. The costs of this action are taxed to the defendant in the amount of \$ \_\_\_\_\_  
(Clerk to enter).

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JUDGE, Seventh Judicial District of Iowa

Approved as to form:

THOMAS J. MILLER  
Attorney General of Iowa



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DEFENDANT